



1424 Chestnut Street, Philadelphia, PA 19102-2505
 Phone: 215.981.3700, Fax: 215.981.0434
 Web Address: www.clsphila.org

Comments on the Proposed Listings for Skin Disorders

On behalf of the **hundreds** of claimants, both adult **and child**, that *Community* Legal Services represents, we file **these** comments on the **proposed** Listings for **Skin** Disorders. **We** applaud the development of Listings for children for **the** first time. **Such** Listings are long overdue. We also note that **these** Listings, **unlike** companion Listings for Hematological **and** Neoplastic Disease **and** for Digestive Diseases, actually **cite** to **professional journals** for scientific authority. They **also** **make** it **clear** that those **who** **are** awarded benefits for a period of time **and** then reviewed, will be **adjudicated** using the medical improvement **standard**. This is a **key provision** that should be **made clear** in all of the agency's **rulemakings**.

There are several points, however, **where** the proposed listings need to be improved. For example, **while** it is true that **most** *skin* disorders are responsive to **treatment**, it is also true that **not all** claimants have access to **health care**. The Listings need to **address this fact** by **making it clear** that claimants will not be **penalized** if they are **unable** to obtain state-of-the-art care.

We also have several other concerns:

1. Referring burn victims to the musculoskeletal Listing is understandable, but somewhat unclear, since it **needs** to be **made clear** that it is the functional limitations **that are being** compared, not the **underlying diagnostic criteria**. For example, a **bum** may leave someone with the inability to **move a joint**, but the reason for the **immobility** will not be seen on Xray.

2. In 108.00B, the Listing **calls** for evaluating the "frequency of flare-ups" but gives no standards for evaluation. Recurrent problems may be addressed with medication **and** the flare-up may be **treated** within 3 months, but **if** the condition recurs frequently, **then** the condition may very well be **disabling**,

3. In 108.00C.1, the Listing requires that a child have a "very serious limitation." This is consistent with **the** new definition of an "extreme" impairment in section 416.926a(c), but the Listing talks in **the plural** about very serious **limitations** affected by multiple body sites **or** areas, leaving **one** with the impression **that** one would **only** be considered disabled if one had **more than one** very serious limitation. The proposed Listing needs to make it clear that **one** may be considered disabled if a particular function (singular), such as walking or handling, is affected "very seriously." **While** it would normally be true that walking would only be adversely affected **if** multiple areas are affected, the amount of area is **not** as important as the impact on function. This may seem like a minor point but it is **not** — it goes to the heart of **the** level of functional loss that is required by **the Listings**.

4. Finally, the Listing for Photosensitivity disorders, §§8.07, 108.07 requires "extensive lesions that persist for at least 3 months" without making allowance for those who avoid such lesions by avoiding sunlight and thus live **an** extremely proscribed life, but avoid extensive

lesions. Clearly the Listings should not require that one *get* sick in order to establish disability.

Respectfully submitted,

**Richard P. Weishaupt
Senior Attorney
Jonathan M. Stein
General Counsel**